

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BENJAMIN JOHN BIESE,

Petitioner,

v.

Case No. 14-C-571

WILLIAM POLLARD,

Warden, Waupun Correctional Institution,

Respondent.

DECISION AND ORDER

On March 19, 2014, pro se Petitioner Benjamin John Biese (“Biese”), currently incarcerated at Waupun Correctional Institution, filed a petition for relief pursuant to 28 U.S.C. § 2254 challenging his state conviction. Biese filed two requests to proceed without payment of the filing fee and filed a certified copy of his trust account statement on June 27, 2014. Having reviewed those documents, the Court concludes that Biese is unable to pay the filing fee and states an arguable claim for relief. His requests to proceed without payment of the filing fee are granted.

Furthermore, after initial review of the petition the Court is unable to conclude that Biese is not entitled the relief that he seeks. Rule 4, Rules Governing Section 2254 Cases. Therefore, the Court will require Respondent William Pollard (“Pollard”) to file an answer or other responsive pleading. Biese has requested an evidentiary hearing, and that he be allowed to call Rickey James Gandy as a witness at

any such hearing. Those requests will be considered after the Respondent has filed its answer or other responsive pleading. Rule 8(a), Rules Governing Section 2254 Cases.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Biese's requests to proceed without payment of the filing fee (ECF Nos. 2, 10) are **GRANTED**;

Pollard **MUST FILE AN ANSWER** or other responsive pleading to Biese's petition for a writ of habeas corpus on or before **September 8, 2014**; and

Any answer **MUST** conform to the requirements of Rule 5 of the Rules Governing Section 2254 Cases.

Dated at Milwaukee, Wisconsin, this 8th day of July, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge